

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Masonville Post Office
Masonville, Iowa

Docket No. A2011-38

PUBLIC REPRESENTATIVE'S REPLY COMMENTS

October 11, 2011

I. INTRODUCTION AND SUMMARY

These Reply Comments reflect the view that procedural and substantive due process is at the core of the law and regulations governing post office appeals, and that representation of "the interests of the general public" in these cases therefore centers on whether the Postal Service has honored this principle.

Typically, the Commission can conclude that procedural due process has been provided to Petitioners and other patrons of a post office that is a candidate for closing if the Administrative Record demonstrates that the Postal Service has followed certain requirements, such as publicly posting a notice at the affected office, holding a community meeting, and distributing questionnaires. The Commission can make a similar conclusion with respect to substantive due process if the rationale and representations memorialized in the Administrative Record and in related materials, reflect two hallmarks: transparency and accountability.

In this case, a review of the Administrative Record¹ shows that the Postal Service followed the required steps and cured the omission of an Item (No. 22) in its original submission; thus, there are no legitimate grounds for a remand on the basis of deficiencies in procedural due process. However, in at least two instances, the Postal Service's consideration of applicable statutory factors, as evidenced in its assessment of Petitioners concerns and of responses to questionnaires, reflect a lack of transparency and accountability.

One of these instances is the economic savings. Specifically, the Postal Service asserts that there is no evidence to support Petitioner Nellie Marting's claim, in her Participant Statement (at Paragraph 1) that a "low quality and inaccurate study was done." Postal Service Comments (September 26, 2011) at 10. However, a review of items in the Administrative Record clearly show that Mrs. Marting has a valid point. In particular:

- Section IV of Item No. 29 identifies a one-time expense of the \$21044 for installation of CBUs and parcel lockers, which means the \$21044 in total annual savings is a wash;
- Item No. 29 does not seem to account for the possibility, as acknowledged in Item No. 15 (Post Office Fact Sheet), that an OIC salary will be incurred if the OIC is retained instead of terminated, even if the OIC is not employed at Masonville or Winthrop;
- Item No. 29 may include an amount for the salary of a "virtual" Level 53 Postmaster, instead of the OIC's salary; and
- the omission of what Item No. 15 (Post Office Fact Sheet)/ Question 6 and Item No. 18 (Post Office Closing or Consolidation Proposal)/Box 16a ("Quarters") clearly identify as a continuing leasehold obligation (no 30-day lease cancellation clause).

¹ See Administrative Record filed by the Postal Service on September 20, 2011. This Administrative Record serves as a complete replacement for the original Administrative Record, filed August 17, 2011, although only Item 22 (captioned "Returned Questionnaires and Postal Service Response Letters") was affected. See *also* United States Postal Service Notice of Filing, September 20, 2011.

With respect to the lease, the Postal Service challenges Masonville patrons, claiming the lease expires on February 28, 2013, not in 10 years. Postal Service Comments at 10. It says: "... thus the lease cost savings will arise from that point forward, and perhaps sooner if the Postal Service is able to sublease the property. *Id.* However, this is circular reasoning, and plainly skirts concerns that the economic savings estimate focuses narrowly on an annual savings.

The other instance involves the effect on the community. The Postal Service asserts that it has adequately considered the effect on the community, but most Masonville patrons take issue with the conclusion that they will be as well served under the planned approach. However, the Postal Service does not even address why a collection box cannot be left in the community. In the interest of accountability and transparency, the Postal Service should explain why a collection box cannot be retained in Masonville.

These are substantive due process shortcomings; therefore, the Postal Service has not fully met its statutory obligation.²

The remaining discussion:

- draws on the Administrative Record to summarize current and anticipated postal delivery and retail services for Masonville residents; and
- suggests that a remand would be an appropriate remedy, as this would allow the Postal Service to correct the economic savings estimate where it is facially in error and clarify the treatment of certain matters, such as salaries and the leasehold obligation; and
- suggests a remand will allow the Postal Service to explain

² The Postal Service also maintains that its alternative will provide Masonville residents with a maximum degree of effective and regular service. Many Masonville do not believe this is the case. Consideration of what "maximum" means in the context of the Postal Service's current and anticipated financial condition is an important point, but beyond the scope of these Reply Comments.

why a collection cannot be retained and thus minimize, in at least one respect, the impact of the closing of the Masonville Post Office on the residents

In addition, the Commission is requested to take note of Tables 3 and 4 in these Reply Comments, which show that FY 2010 revenue reflects an increase over both FY 2008 revenue and combined FY 2008 and 2009 revenue.

II. DEVELOPMENTS LEADING TO THIS DOCKET

A. Background

Masonville is a small incorporated community in Delaware County, Iowa. This places it in northeast Iowa, near the state's border with Illinois, in the Upper Midwest. The Delaware county seat is 9 miles away, in Manchester. Waterloo, Dubuque and Cedar Rapids are about a 45-minute drive; Chicago and Minneapolis are about a 4½ hour drive.

Delaware County's official web site³ states:

Masonville is well known for its agricultural business, especially its large grain storage, fertilizer and chemical facilities. Other businesses include an auto repair and body shop, welding and fabrication, cabinet and custom furniture and a food and beverage store which has fish fries every Friday and Saturday nights.

B. The Discontinuance Study Request

Earlier this year, a Discontinuance Study Request transmitted an official request for authority to investigate "a possible" change in postal services for the Masonville Iowa

³ Accessed at www.co.delaware.ia.us, "Our Communities" page, Masonville link.

Post Office. See Item No. 1 in the Administrative Record. This set in motion a series of events that led, among other things, to the Postal Service's issuance of a Final Determination to close the Masonville office and the establishment of this docket. The Discontinuance Study Request cites four considerations underlying the request for a discontinuance study:

- declining workload;
- declining volumes;
- revenue; and
- the ability of the Postal Service to provide effective and regular service by an alternate means.

Id.

The reference to "revenue" – unlike workload and volumes, which it describes as "declining" -- is not qualified in any respect in the Discontinuance Study Request, but Masonville is what the Postal Service refers to elsewhere as an office where revenue is "generally low" Postal Service Comments at 2. To provide some perspective, Item No. 1 in the Administrative Record reveals that FY 2010 revenue did, in fact, decline relative to FY 2009 — by \$634 — but *increased* relative to FY 2008 by \$ 1734. FY 2010 revenue also increased relative to *combined* FY2008 and FY 2009 revenue. Tables 2 and 3 in this document show these figures.

C. Community Concern

Several patrons of the Masonville Post Office, including Mayor Bill Alden, filed timely petitions or comments opposing the Postal Service's decision to close their post office. Nellie and Herman Marting's petition was the first to reach the Commission and, in keeping with agency's standard docketing practices, Mrs. Marting was identified as the lead petitioner. However, Mr. Marting remains an interested party, as do Mayor Bill Alden and other Masonville Post Office patrons. The Commission accepted the appeal

in Order No. 792, issued August 5, 2011. This Order and documents filed with the Commission, by the Postal Service, Petitioners, and others in this case are available electronically by accessing the Commission's website at <http://www.prc.gov>.

Acceptance of Mrs. Marting's appeal triggered a process which involves the Postal Service's filing of the Administrative Record and the Commission's ensuring review thereof. The nature of the Commission's review has been compared to the role of an appellate court in our Nation's legal system. This means, in brief, that the Commission assesses the consistency of the Postal Service's determination with certain statutory criteria. In making this assessment, the Commission cannot substitute its judgment for that of Postal Service or change the Postal Service's decision to close a post office, but may remand the decision to the Postal Service for further consideration of certain points under stated conditions. See 39 U.S.C. 404(d)(5).

III. CURRENT POSTAL OPERATIONS IN MASONVILLE

The Masonville Post Office is a part-time post office. It is classified as an EAS-53 level facility.⁴ This classification, according to Postal Service witness Boldt's testimony in pending Docket No. N2011-1 (USPS-T-1 at 3), places Masonville at the mid-point of the small part-time post offices in terms of hours.

⁴ Administrative Record Item No. 1; Postal Service Comments at 2.

The following table, developed from documents in the Final Determination provides a snapshot of recent postal operations in Masonville:

Table 1
Masonville Iowa Post Office
Selected Operational Data and Information

Staffing	
Postmaster Position	Vacant; postmaster promoted 8/19/2006
Officer-in-Charge/Status	Since 8/2006; noncareer status
Customers	
P.O. Box Delivery	26 in use; 34 available
P.O. Box Fee Group	6
City Delivery Customers	None
Meter or Permit Customers	None
General Delivery, Rural Route and Highway Contract Route	None
Retail Operations	
Hours per week (total)	22.5
Days of Operation	Six
Monday through Friday?	Yes
Window Service Hours	12 Noon to 4:15 p.m.
Lobby Hours	12 Noon to 6:30 p.m.
Saturday?	Yes
Window Service Hours	11:30 a.m. to 12:45 p.m.
Lobby Hours	11:30 a.m. to 1 p.m.
Seasonal Workload?	No.
Average daily retail transactions	6 (rounded down)
Revenue/Units	
FY 2008	\$10,994/29 units
FY 2009	\$13,365/35 units
FY 2010	\$12,731/33 units
Collection Box	Yes.
Bulletin Board	Yes.

Source: Postal Service Comments at 2-3; Administrative Record, Item No. 47.

IV. ANTICIPATED POSTAL SERVICE OPERATIONS IN MASONVILLE

If the Masonville Post Office is closed, the Postal Service plans to provide the former patrons of that office with rural route delivery emanating from Winthrop, Iowa. Postal Service Comments at 3. As noted at the outset of these Reply Comments, the Winthrop Post Office is in neighboring Buchanan County. It is an EAS-16 level facility, and one of two alternative post offices identified in the Administrative Record. The other is Manchester, Iowa, which places it in the same county (Delaware) as Masonville. Both of the Winthrop Post Office and the Masonville Post Office are 9 miles from Masonville. There are 108 available boxes at Winthrop. The Postal Service plans to remove the only collection box in Masonville. It seems to assume that Masonville residents who are interested in renting a post office box will do so at Winthrop, noting that boxes here are in a lower fee group; however, it acknowledges that Manchester is an option. Responses to Questionnaires (in Item No. ^) seem to bear out the plausibility of Manchester as the most likely option for Manchester residents, given their overwhelming identification of Manchester as the place they routinely go when they leave Masonville. The following table summarizes post-closing services for Masonville residents.

Table 2
Service for Former Patrons of Masonville Post Office
Selected Operational Data and Information

Retail Operations at Winthrop Post Office	
No. of Available Boxes at Winthrop	118
Fee Group	Fee Group 7
Hours per week (total)	22.5
Monday through Friday?	Yes
Window Service Hours	12 noon to 4:15 p.m.
Saturday Window Service?	No.
Saturday Lobby Hours?	Yes, 24 hours.

V. ISSUES FOR THE COMMISSION'S CONSIDERATION

A. Economic Savings

The Administrative Record that should be clear and complete on financial matters. That is not the case with Masonville, in small and large respects. The basis for the Postal Service's savings estimate is murky, quite apart for an obvious error regarding the cost of CBUs and parcel lockers. The estimate may overstate salary by using a Level 53 Postmaster's salary as the frame of reference, when the salary for a lower-paid OIC may in fact be the proper frame of reference. In addition, it may fail to include the OIC's salary if this person remains on the payroll. Finally, the estimate appears to ignore the continuing leasehold obligation enter into the equation, perhaps on grounds that the estimate is only provided on an "annual basis." The Postal Service's explanation that this obligation may be recognized (and perhaps reduced) in the future falls far short of what is expected in a professional cost savings estimate from a leading agency with scores of financial experts at its disposal.

As a matter of due process for affected patrons and of substantial evidence, the Commission should direct the Postal Service to reconsider its economic savings estimate. The Postal Service's clarification of these points would help bridge the due process gap in this case, and may help avoid similar gaps in future records. Moreover, it appears that this reconsideration would impose little additional burden on the Postal Service.

Revenue note. The following table reproduces the three-year data the Postal Service provided in the Administrative Record. It shows that revenue declined by \$634 in FY2010 relative to FY2011, but increased by \$1737 over FY 2008. Similarly, revenue units increased by 4 over FY 2008.

Table 3

Masonville Iowa Post Office Revenue and Units		
Reference Point	Dollars	Units
FY 2008	\$10,994	29
FY 2009	\$13,365	35
FY 2010	\$12,731	33

Also, if FY 2008 and FY 2009 revenues are averaged, and then compared to FY 2010, FY2010 again shows an increase, as illustrated in the following table.

Table 4

Reference Point	Dollars	Units
FY 2008	\$10,994	29
FY 2009	\$13,365	35
FY 2008 and FY 2009 (combined)	\$24,359	64
FY 2008 and FY 2009 (averaged)	\$12,180*	32
FY 2010	\$12,731	33

*rounded up

The Administrative Record clearly states that “revenue” is one of the reasons for initiating the Masonville Post Office discontinuance study. As Tables 2 and 3 show, the Masonville Post Office may actually be holding its own on the revenue front and is primarily a victim of the Postal Service's expectation of a diminished retail footprint going forward.

VI. STANDARD OF REVIEW AND APPLICABLE LAW

A. The Statutory Standard of Review

The Commission's authority to review post office closings is set out in 39 U.S.C. § 404(d)(5). This provision requires that the Commission review the Postal Service's Determination on the basis of “the record that was before the Postal Service.” It allows

the Commission to set aside any determination, findings, and conclusions that it finds to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; without observance of procedure required by law; or unsupported by substantial evidence in the record. (As stated at the outset of these Reply Comment, due process is an underlying and pervasive consideration.) In the event the Commission sets aside any such determination, findings, or conclusions on one or more of these grounds, it may remand the entire matter to the Postal Service for further consideration.

B. Applicable Law — Postal Service Requirements

Prior to making a Final Determination to close or consolidate a post office, the Postal Service must consider four specific factors and may consider other factors it deems necessary. The four specific factors are:

- (i) the effect of the closing on the community served;
- (ii) the effect on the employees of the Postal Service employed at the office;
- (iii) whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;"
- (iv) the economic savings to the Postal Service due to the closing; and
- (v) such other factors as the Postal Service determines are necessary.

39 U.S.C. § 404(d)(2)(A)(i) through (v).

In addition, the Final Determination must be in writing; address the aforementioned considerations, and be made available to persons served by the post office. 39 U.S.C. § 404(d)(3).

VII. CONCLUSION

The Postal Service acknowledges that a Participant Statement asserts that “a low quality and inaccurate study was done regarding the services and sales that are handled at the MPO,” but responds by saying there is no further explanation as to how the Postal Service’s determination of economic savings is faulty. Postal Service Comments at 10. It maintains it has no reason to believe that the evidence in the record is inaccurate, and accordingly there is no evidence in the record that would support that conclusion. *Id.* However, the preceding discussion shows there are several shortcomings in the Postal Service’s estimate of cost savings, some significant.⁵ These shortcomings warrant a remand. A remand would recognize the need for due process that the patrons of the Masonville Post Office deserve.

In summary, a review of the Administrative Record shows that the Postal Service has met many of its responsibilities in compiling its case, including some that require extensive coordination. However, it also shows there are gaps that implicate due process. The Postal Service can bridge these gap with minimal additional effort in this case and should do so in future cases, as well. Thus, it is respectfully requested that the Commission consider and act on this request to remand the decision of the Postal Service to close the Masonville Iowa Post Office for further consideration. A remand will instill greater confidence in the Postal Service’s commitment to patrons of post offices that are candidates for closing and not unduly burden the Postal Service.

⁵ There are also other aspects of the Administrative Record that do not give rise to a reason for remand, but could undermine Masonville postal patrons’ confidence in how carefully the Postal Service considered their situation. For example, Item No. 33 appears to inaccurately state, in Point 2 of the proposal’s advantages, that “Customers opting for carrier service will have a 24-hour access to their mail.” It seems the Postal Service meant to refer to rental box service. This is not a mistake that would warrant a remand, but points to the need for greater attention to preparation of the Administrative Record.

Respectfully Submitted,

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